

REMARKS

Upon entry of the foregoing Amendment, claims 1-6, 9-13, 15-18, 20-21, and 23-26 are pending in the application. Claims 1, 6, 11, 13, 18, 21, 23, and 26 have been amended. Claim 22 is cancelled. No claims are newly added. Applicant believes that this Amendment does not add new matter. In view of the foregoing Amendment and following Remarks, allowance of all the pending claims is requested.

NON-STATUTORY DOUBLE PATENTING REJECTION

The Examiner has rejected claim 1 under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claim 1 of U.S. Patent No. 6,430,712 to Lewis ("Lewis").

Applicants will consider filing a terminal disclaimer to overcome this rejection once otherwise patentable subject matter is determined. Applicant notes that the filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. *See Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870 (Fed. Cir. 1991).

REJECTION UNDER 35 U.S.C. § 112

The Examiner has rejected claims 1, 6, 8, 11, 13-14, 18, 20-21, 23, and 26 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant traverses this rejection because the claims do point out and distinctly claim the subject matter which Applicant regards as the invention.

More particularly, a person having ordinary skill in the art would be able to discern what constitutes a "desirable" or "undesirable" state from the plain meaning of the terms, as well as from the detailed description of the terms in the specification. As such, the Examiner has failed to apply the proper standard for claim interpretation, whereby claims are read "in light of the specification, to thereby interpret limitations explicitly recited in the claim." MPEP § 2111.

However, although Applicant disagrees with the propriety of the rejection, solely in an effort to expedite prosecution, Applicant has amended claims 1, 6, 11, 13, 18, 21, 23, and 26 to further clarify the invention. Accordingly, Applicant requests that the Examiner withdraw this rejection of the claims.

REJECTION UNDER 35 U.S.C. § 102

The Examiner has rejected claims 1-6, 9-13, 15-18, and 20-21, and 23-26 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,336,139 to Feridun et al. ("Feridun"). Applicant traverses this rejection because Feridun does not disclose each and every feature of the claimed invention.

More particularly, Feridun does not disclose at least the feature of "an alarm correlation agent that receives alarms from the monitoring agents, [and] that determines a current state of the service based on alarms originating from the subset of the plurality of network components," as recited in claim 1, for example. The Examiner alleges that Feridun teaches this feature at col. 8, lines 15-45.

At best, Feridun discloses a correlation engine that determines when one or more events satisfy a correlation rule. However, Feridun does not disclose "an alarm correlation agent that receives alarms from the monitoring agents," where an alarm is "a function of the one or more detected events," as recited in claim 1, for example. Instead, Feridun discloses software agents, which use "events" to convey status changes in monitored objects. Feridun at col. 8, lines 10-14. A correlation engine may subsequently correlate these "events" to determine a "correlation match." Feridun at col. 8, lines 53-61.

Assuming *arguendo* that a "correlation match" corresponds to the claimed "alarm," Feridun nonetheless fails to disclose "an alarm correlation agent that receives alarms . . . [and] determines a current state of the service based on alarms originating from the subset of the plurality of network components." Rather, Feridun discloses "low-level" event correlation to determine when one or more events are indicative of a given condition. Feridun at col. 2, lines 4-9. Even if such a "given condition" is considered an "alarm," Feridun nonetheless fails to disclose a comparatively higher-

level alarm correlation "that determines a current state of the service based on alarms originating from the subset of the plurality of network components," as recited in claim 1, for example.

For at least the foregoing reasons, Feridun fails to disclose "an alarm correlation agent that receives alarms from the monitoring agents," as recited in claim 1, for example. In particular, Feridun is directed to correlating events, which are distinct from alarms. For similar reasons, Feridun fails to disclose "an alarm correlation agent that . . . determines a current state of the service based on alarms originating from the subset of the plurality of network components and, that issues one or more instructions to autonomously establish a desirable state of the service when the current state of the service is undesirable, wherein the desirable and undesirable states of the service are specified by a service level agreement," as recited in claim 1, for example. Accordingly, the rejection is improper and must be withdrawn.

Claims 6, 11, 13, 18, 21, 23, and 26 include features similar to those set forth in claim 1. Claims 2-5, 9-10, 12, 15-17, 20, and 24-25 depend from and add features to one of claims 1, 6, 11, 13, 18, 21, 23, and 26. Thus, the rejections of these claims are likewise improper and must be withdrawn for at least the same reasons.

CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

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